

MINUTE ORDER

This order summarizes rulings made at a discovery hearing on June 20, 2011. As discussed on the record, plaintiff's motion to compel [26] is granted as to all document requests at issue, subject to the limitation discussed below.

Defendant contends that requests ## 4 and 5 pertain to documents already in plaintiff's possession and include confidential and proprietary information. There is no dispute that the information is discoverable and there is no claim of burdensomeness. Any confidentiality concerns are sufficiently addressed by the Protective Order in place.

Defendant's response to Request # 6 must include all other responsive documents besides internal documents, including communications with investors, if responsive.

Defendant generally objects to the other requests at issue as overbroad and not relevant since they pertain to TNB's "preparations" and other actions which will go into effect after the January 2012 termination of the confidentiality and non-compete agreement (the "Agreement") giving rise to the claims in this action. This Court disagrees, since information is relevant and discoverable so long as the discovery "appears reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1). It is premature at this juncture to determine that documents sought will not pertain conduct which violates the Agreement. Thus, I find that the remaining requests, 7, 8, 9, 10, 11, 14, 16 and 17 may lead to discovery of admissible evidence.

To avoid an unduly narrow reading of request # 7 by defendant, plaintiff shall reformulate the request to describe activities and/or conduct encompassed by the term "preparations." However, requests 10, 11, 14, 16 and 17 are limited to the time period covered by the Agreement.

Last, I note that in light of plaintiff's representation that it and Country Fresh deal only in fudge products, I do not find requests 8 and 9 to be overbroad.

Defendant must respond to the requests by July 1, 2011.

SO ORDERED.

Dated: Brooklyn, New York
June 21, 2011

/s/

MARILYN D. GO
UNITED STATES MAGISTRATE JUDGE